

## **REMARKS**

### **Status of Prior IDS Submissions in view of Revival of Application**

When applicants filed their RCE with an IDS on May 21, 2007, they unintentionally failed to file a Reply to the outstanding ground of rejection in the Final Office Action. A further IDS was filed on May 25, 2007, before the error was recognized. For purposes of non-duplication and paperwork reduction, these two IDS's have not been resubmitted. The PTO Pair image file shows that these IDS's are entered in the image file. Thus, unless applicants are notified to the contrary, it will be assumed that they will be considered by the Examiner and made of record.

### **The Obviousness-type Double Patenting Rejection**

The rejection of claims 173-192, 195-230, 233 and 234 for obviousness-type double patenting over claims 19-49 of U.S. Patent No. 6,869,941 is respectfully traversed.

All method claims 19-49 of the '941 patent recite use of drospirenone, in general. See claim 19, upon which all the other method claims ultimately depend. The '941 claims do not recite a method using a particular form of drospirenone, i.e.:

- "in a form having a rapid dissolution such that at least 70% of said drospirenone is dissolved from a tablet containing 3 mg of drospirenone in 900 ml of water at 37°C within 30 minutes, as determined by USP XXIII Paddle Method using a USP dissolution test apparatus 2 and 50 rpm as the stirring rate,"
- "in a form having a surface area of more than 10 000 cm<sup>2</sup>/g," or
- "wherein the drospirenone has a particle size distribution such that not more than 2% of the particles have a diameter of more than 30 µm."

Compare the instant independent claims, each containing one of these recitations.

In the Final Office Action, it was alleged that the patented claims are directed to treating the same conditions as in the instant claims also using drospirenone and an estrogen and, therefore, the drospirenone used in the patented method must be of the same form as that recited above in the instant claims. Applicants respectfully disagree. There is no suggestion that the drospirenone recited in the patented claims has one of the forms recited in the instant claims.

The nonobviousness of the use of the recited forms has been established of record in the Reply of March 7, 2005 and the submissions discussed therein. These resulted in the then-existing obviousness rejection being withdrawn.

The required fees associated with this response are being paid concurrently by credit card via EFS and no other fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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